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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,831	01/17/2006	Adrian Stevenson	66347-136-7	3426
25769 7590 05/13/2008 DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005				
EXAMINER				
SAINT SURIN, JACQUES M				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,831

Applicant(s)

STEVENSON ET AL.

Examiner

J M. SAINT SURIN

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007 and 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date 03/07, 01/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings filed on 01/17/06 are accepted by the Examiner.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "electronic circuit" recited in claims 2-3 and 30 is not disclosed anywhere in the specification.

Claim Objections

3. Claims 2-3 are objected to because of the following informalities: There is no antecedent basis for "electronic" recited in claims 2-3 (lines 1, 1). However, for the purpose of examination, the term "electronic circuit" will be interpreted as --electrical circuit-- to be consistent with claim 1 which recites an electrical circuit.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (WO 03/019981 A2).
6. Regarding claim 1, Thomson discloses an acoustic sensor (see Figs. 2 and 3 and page 5, line 17) comprising at least one resonant element (sensor plate 30 which

may be a mounted piezoelectric disc and formed of piezoelectric material, see page 5, lines 19-22);

a driver (electromagnetic field fluctuator, see page 5, line 22 and page 7, lines 30-31) comprising an electrical coupling means (capacitor of Fig. 3) and electromagnetic field source (coil 36, see page 11, line 4 and Fig. 3), arranged such that, in use, the electrical coupling means (capacitor Fig. 3), transfers current to the electromagnetic field source (36) which produces an electromagnetic field (col. 5, lines 33-36) that drives the at least one resonant element (30), (see page 8, lines 6-7 and 14-16) to produce acoustic waves directed to a predetermined part of a test sample (page 7, 25 and 28); an electromagnetic detector (36, see Figs. 3-4A) arranged to receive, in use, the acoustic spectrum emitted from the test sample after the acoustic waves have interacted with the test sample (vibration of the sensor plate (30) is evaluated by a monitoring device, not shown, which derives feedback from the coil, see page 2, lines 8-9, page 15, lines 1-8 and Figs. 2-3);

and an electrical circuit (FET of Fig. 3, Fig. 4A also shows the claimed limitation) connected to the driver (fluctuator) and electromagnetic detector (coil 36), the circuit arranged, in use, to provide the current and to detect, in combination with the electromagnetic detector (36), the acoustic spectrum received by the electromagnetic detector (36) (see: Figs. 3 and 4A).

Regarding claim 2, Thompson discloses a sensor according to claim 1, wherein the electronic circuit comprises an electrical oscillator (oscilloscope of Fig. 3, page 12, line 25).

Regarding claim 3, Thompson discloses a sensor (30) according to claim 1, wherein the electronic circuit comprises a frequency modulated signal generator, an AM diode detector and a lock-in amplifier (see: Fig. 3 and page 8, lines 64-col. 9, line 1).

Regarding claim 4, Thompson discloses a sensor according to claim 1, wherein the electromagnetic field source and the electromagnetic detector are the same member (coil 36, see Figs 2-4).

Regarding claims 5-8, Thompson discloses the fluctuator may comprise a coil electromagnet, such as a copper coil wire that may optionally be coated with enamel (page 10, lines 5-6 and Fig. 2).

Regarding claim 9, Thompson discloses the coil consists of enamelled copper wire (outside diameter approx. 90 μm) wound into a flat spiral (approx. 4 mm diameter) on an epoxy laminate board (page 12, lines 20-21).

Regarding claim 30, Thompson discloses a method for use in acoustic sensing, the method comprising the steps of:

applying a current (RF generator of Fig. 3) to an electrical coupling means (capacitor of Fig. 3);

transferring current (RF) from the electrical coupling means (capacitor) to an electromagnetic field source (coil 36);

driving (fluctuator), with an electromagnetic field produced by the electromagnetic field source (36), at least one resonant element (plate 30 mounted on a piezoelectric

disc) to produce acoustic waves directed to a predetermined part of a test sample (page 11, lines 5-6);

and detecting with an electronic circuit (as best understood, FET, AM detector, Figs 3 and 4A) connected to the electromagnetic field source (RF generator of Fig. 3) together with an electromagnetic detector (coil 36) and the electrical coupling means (capacitor Fig. 3), the acoustic spectrum produced after the acoustic waves have interacted with the test sample (page 11, lines 8-9 and page 15, lines 1-8).

Regarding claim 31, Thompson discloses a method according to claim 30, wherein the at least one resonant element produced acoustic waves by electrostriction (see: page 11, lines 29-30, page 12, lines 21-22). Note that the electromagnetic field produced by the coil 36 drives a piezoelectric element (disc) to produce acoustic waves by electrostriction.

Regarding claim 32, Thompson discloses a method according to claim 30, wherein the at least one resonant element produces acoustic waves by magnetostriction (page 11, line 29 to page 12, lines 1-2, page 17, lines 3-10).

Regarding claim 33, Thompson discloses a method according to claim 32, wherein the acoustic waves are detected by means of an electrical oscillator (page 12, line 28) tuned to the fundamental or harmonic frequency of the resonant element (page 12, lines 18-19, page 19, lines 17-19).

Regarding claim 34, Thompson discloses a method according to claim 32, wherein the acoustic waves are detected by means of a frequency modulated signal

Art Unit: 2856

generator (page 12, lines 11-14), an AM diode detector (and page 13, lines 11-13) and a lock-in amplifier (page 12, line 29). (See also Figs. 3 and 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 10-29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Thompson (WO 03/019981 A2).

Regarding claims 10 and 16, although Thompson discloses an electromagnetic field source, it does not particularly disclose the electromagnetic field source is a microwave horn and electromagnetic detector is a microwave horn. However, the coil 36 horn performs the identical function with the microwave horn specified in the claim in substantially the same way, and produces substantially the same results as the coil

disclosed in the specification. Note that the microwave horn is equivalent to the coil since both are capable of producing a radio frequency electromagnetic waves from a radio frequency current to induce the test sample of Thompson. Therefore, a person of ordinary skill in the art would have recognized the interchangeability of the coil for the microwave horn in the above circuit to be effectively used as electromagnetic source to generate electromagnetic waves and as electromagnetic detector to detect electromagnetic waves or radiation resulting from the vibration of the resonant element of the test sample. Thus, the use of a microwave horn as electromagnetic source or electromagnetic energy in the circuit of Thompson would provide the advantages of being operable from a relatively low voltage source and which requires no magnetic field for obtaining the modulated current to induce the test sample.

Regarding claims 11-14, Thompson discloses the fluctuator may comprise a coil electromagnet, such as a copper coil wire that may optionally be coated with enamel (page 10, lines 5-6).

Regarding claim 15, Thompson discloses the coil consists of enamelled copper wire (outside diameter approx. 90 μm) wound into a flat spiral (approx. 4 mm diameter) on an epoxy laminate board (page 12, lines 20-21).

Regarding claim 17, Thompson discloses a sensor according to claim 16, wherein the resonant element is metal (page 15, lines 12-13).

Regarding claim 18, Thompson discloses a sensor according to claim 17, wherein the resonant element is magnetostrictive (page 11, line 29 to page 12, lines 1-2, page 17, lines 3-10).

Regarding claim 19, Thompson discloses a sensor according to claim 16, wherein the resonant element is piezoelectric (page 13, lines 21-22).

Regarding claim 20, Thompson discloses a sensor according to claim 19, wherein the resonant element is a composite of at least two different materials (page 11, line 3 and page 11, line 3).

Regarding claim 21, Thompson discloses a sensor according to claim 20, wherein the test sample is in a gaseous phase (air and liquid) page 15, lines 10-11).

Regarding claim 22, Thompson discloses a sensor according to claim 21, wherein the resonant element is coated with a polymer layer (page 8, lines 31).

Regarding claim 23, Thompson discloses a sensor according to claim 22, wherein the test sample is in a liquid phase (page 16, lines 6-7).

Regarding claim 24, Thompson discloses a sensor according to claim 23, wherein the electrical coupling means (capacitor of Fig. 3) is a multiply resonant transmission line (although an 81 MHz signal is used in this example, other frequencies may be used, as would be clear to one of skill in the art; by simply tuning the coil/capacitor circuit one can interrogate the disc using any multiple of its fundamental frequency; impedance analyzer experiments have shown the device to work as high as 500 MHz, see: page 19, lines 17-19).

Regarding claim 25, Thompson discloses a sensor according to claim 24, wherein the resonant element is coated with a biorecognition layer (page 8, lines 25-26).

Regarding claims 26-29, Thompson discloses a sensor according to claim 25, wherein in use, the sensor detects cells, proteins, antibodies and nucleic acids (page 8, lines 25-26, page 9, lines 1-4).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J M. SAINT SURIN whose telephone number is (571)272-2206. The examiner can normally be reached on Mondays to Fridays between 9:30 A.M and 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron L. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jacques M SAINT SURIN/
Examiner, Art Unit 2856
May 08, 2008

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